

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 18-14615-E

NATIONAL LABOR RELATIONS BOARD,

Petitioner,

versus

U.S. POSTAL SERVICE,

Respondent.

Application for Enforcement of an Order of the
National Labor Relations Board

Before: TJOFLAT, MARTIN, and ROSENBAUM, Circuit Judges.

BY THE COURT:

THIS CAUSE was submitted upon the application of the National Labor Relations Board for the enforcement of a certain order on consent issued by it against Respondent, United States Postal Service, its officers, agents, successors, and assigns, on October 4, 2018, in Board Case Nos. 12-CA-202996 and 12-CA-203260; and upon the record in that proceeding, certified and filed in this Court enforcing the order.

ON CONSIDERATION WHEREOF, it is ordered and adjudged by the United States Court of Appeals for the Eleventh Circuit that the order of the National Labor Relations Board be, and the same is hereby enforced; and that the Respondent, United States Postal Service, its

officers, agents, successors, and assigns, abide by and perform the directions of the Board set forth in its order. (See Attached Order and Appendix).

The mandate shall issue forthwith.

NATIONAL LABOR RELATIONS BOARD

v.

UNITED STATES POSTAL SERVICE

ORDER

United States Postal Service, at its 400 Whitehead Street, Key West, Florida and 2764 N. Roosevelt Blvd., Key West, Florida facilities, its officers, agents, successors, and assigns, shall

1. Cease and desist from

- (a) Failing or refusing to provide, or unreasonably delaying in providing, National Association of Letter Carriers, AFL-CIO, or its agents, including National Association of Letter Carriers, Branch 818, AFL-CIO, with requested information that is relevant and necessary to its role as the exclusive collective-bargaining representative of the employees in the following unit:

All employees in the bargaining unit for which NALC has been recognized and certified at the national level — City Letter Carriers, employed by the United States Postal Service, excluding managerial and supervisory personnel, professional employees, employees engaged in personnel work in other than a purely non-confidential capacity, security guards as defined in Public Law 91-775, 1201(2), Postal Inspection Service employees, employees in the supplemental work forces as defined in Article 7 of the collective-bargaining agreement between Respondent and NALC, rural letter carriers, mail handlers, maintenance employees, Special Delivery Messengers, Motor Vehicle Employees and Postal Clerks.

- (b) Unreasonably delaying in providing American Postal Workers Union, AFL-CIO, or its agents, including American Postal Workers Union, Local 620, AFL-CIO, with requested information that is relevant and necessary to its role as the exclusive collective-bargaining representative of the employees in the following unit:

All employees in the bargaining unit for which APWU has been

recognized and certified at the national level: maintenance employees, motor vehicle employees, postal clerks, mail equipment shops employees, material distribution centers employees, and operating services and facilities services employees; excluding managerial and supervisory personnel, professional employees, employees engaged in personnel work in other than a purely non-confidential clerical capacity, security guards as defined in Public Law 91-375, 1201(2), all Postal Inspection Service employees, employees in the supplemental work forces as defined in Article 7 of the collective-bargaining agreement between Respondent and APWU, rural letter carriers, mail handlers, and letter carriers.

- (c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them in Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act:

- (a) Within 14 days from the date of the Board's Order, the Respondent will provide National Association of Letter Carriers, Branch 818, AFL-CIO (Branch 818) with information that it requested on July 12, 19, 20, 21, and 22, 2017, regarding the Respondent's Key West, Florida operations. Specifically, the Respondent will provide Branch 818 with:

The following information that was requested on July 12, 2017:

1. The hiring list for July 1, 2017 to July 12, 2017.
2. The status of Wolf's T-6/T2 float.
3. Emails regarding Denise Young and the Window of Operations not bringing in ODL (overtime desired list) carriers during the period from July 1, 2017 to July 12, 2017.
4. Documents that show all carriers on restrictions (8-hour, 9-hour, and 10-hour restrictions), during the period from July 1, 2017 to July 12, 2017.

The following information that was requested on July 19, 2017:

5. Information as to why no schedule was posted on July 18, 2017.

The following information that was requested on July 20, 2017:

6. The CSDRS-Report for July 19, 2017, except for the portion of that report concerning mail condition.
7. All mandating reports for the period from July 1, 2017 to July 19, 2017.

The following information that was requested on July 21, 2017:

8. The documents carrier Brandy needs to fill out to obtain her uniform allowance.
9. A copy of the Heat Abatement Program for the Key West Post Office including all instructions given to supervisors as well as instructions that they were to provide letter carriers.
10. Copies of updated OSHA 300 logs for the last 5 years.
11. For the 90 day period ending on July 20, 2017, documents showing the names of the supervisor(s) or managers who presented heat abatement related safety talks, with copies of all documents used to give these talks, a listing of the employees in attendance, the time that each stand-up talk was presented, and copies of the ETC reports showing when letter carriers clocked in. This information is requested for each stand-up talk that the Employer conducted on heat safety.
12. For the 90 day period ending on July 20, 2017, printouts from USPS Safety toolkit for each of the stand-up talks identified above in item 11, identifying who entered the information and the documents that were used to enter these records.
13. For the 90 day period ending on July 20, 2017, a list of any employee heat related complaint or concern brought to the attention of supervision, identifying the date of the communication, the name of the employee, the specific concern or comment surfaced, the specific action taken by the employer in response to the comments or complaints surfaced, and the name and title of the person who investigated the complaint/concern.
14. For the 90 day period ending on July 20, 2017, any and all additional information concerning the heat related incident/illness of City Carriers.

The following information that was requested on July 22, 2017:

15. New start time change papers.

16. Documents showing every time a supervisor delivered mail and parcels to any carrier during the period from July 19, 2017 to July 22, 2017.
 17. All 3999 forms completed on carriers from July 1, 2017 to July 18, 2017.
- (b) Within 14 days of service by the Region, post at its 400 Whitehead Street, Key West, Florida and 2764 N. Roosevelt Blvd., Key West, Florida facilities, copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by Region 12, after being signed and dated by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. The Respondent will take reasonable steps to ensure that the notices are not altered, defaced, or covered by any other material. In addition to the physical posting of paper notices, the attached notice marked "Appendix," after being signed and dated by the Respondent's authorized representative, shall be distributed electronically, such as by email, posting on an intranet or internet site, and/or other electronic means, if the Respondent customarily communicates with its employees at the facilities located at 400 Whitehead Street, Key West, Florida and 2764 N. Roosevelt Blvd., Key West, Florida by such means. In addition, the Respondent shall distribute copies of the attached notice marked "Appendix," after being signed and dated by the Respondent's authorized representative, to all supervisors and managers of the Respondent who are employed at the Respondent's facilities located at 400 Whitehead Street, Key West, Florida and 2764 N. Roosevelt Blvd., Key West, Florida. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, copies of the notice to all current employees and former employees employed by the Respondent at any time since July 1, 2017.
- (c) Within 21 days after service by the Region, file with the Regional Director for Region 12 a sworn certification of a responsible official on a form provided by the Region attesting to the steps the Respondent has taken to comply.

APPENDIX

NOTICE TO EMPLOYEES

**Posted by Order of the
National Labor Relations Board
An Agency of the United States Government**

**PURSUANT TO A STIPULATION PROVIDING FOR A BOARD ORDER
AND A CONSENT JUDGMENT OF ANY APPROPRIATE
UNITED STATES COURT OF APPEALS**

FEDERAL LAW GIVES YOU THE RIGHT TO:

Form, join or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities

WE WILL NOT fail or refuse to provide, or unreasonably delay in providing, National Association of Letter Carriers, AFL-CIO, or its agents, including National Association of Letter Carriers, Branch 818, AFL-CIO, with requested information that is relevant and necessary to its role as the exclusive collective-bargaining representative of our employees in the following unit:

All employees in the bargaining unit for which NALC has been recognized and certified at the national level — City Letter Carriers, employed by the United States Postal Service, excluding managerial and supervisory personnel, professional employees, employees engaged in personnel work in other than a purely non-confidential capacity, security guards as defined in Public Law 91-775, 1201(2), Postal Inspection Service employees, employees in the supplemental work forces as defined in Article 7 of the collective-bargaining agreement between Respondent and NALC, rural letter carriers, mail handlers, maintenance employees, Special Delivery Messengers, Motor Vehicle Employees and Postal Clerks.

WE WILL NOT unreasonably delay in providing American Postal Workers Union, AFL-CIO, or its agents, including American Postal Workers Union, Local 620, AFL-CIO, with requested information that is relevant and necessary to its role as the exclusive collective-bargaining representative of our employees in the following unit:

All employees in the bargaining unit for which APWU has been recognized and certified at the national level: maintenance employees, motor vehicle employees, postal clerks, mail equipment shops employees, material distribution centers employees, and operating services and facilities services employees; excluding managerial and supervisory personnel, professional employees, employees engaged in personnel work in other than a purely non-confidential clerical capacity, security guards as defined in Public Law 91-375, 1201(2), all Postal Inspection Service employees, employees in the supplemental work forces as defined in Article 7 of the collective-bargaining agreement between Respondent and APWU, rural letter carriers, mail handlers, and letter carriers.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of your above stated rights under Section 7 of the Act.

WE WILL provide NALC Branch 818 with the information it requested on July 12, 19, 20, 21, and 22, 2017.

UNITED STATES POSTAL SERVICE

The Board's decision can be found at www.nlr.gov/case/12-CA-202996 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.



**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

December 17, 2018

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 18-14615-E

Case Style: National Labor Relations Board v. United States Postal Service

Agency Docket Number: 12-CA-202996

The stipulation for entry of a consent judgment has this day been entered in the referenced case.
A copy of the consent judgment is enclosed. The proceeding is terminated in this Court.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Gloria M. Powell, E

Phone #: (404) 335-6184

Enclosure(s)

DIS-4 Multi-purpose dismissal letter